

MAINE STATE HARNESS RACING COMMISSION

MINUTES OF MEETING

November 8, 2016

Gambling Control Board Conference Room

Department of Public Safety

45 Commerce Drive, Augusta, Maine

Commission Members Present: William Varney, Chair, Gary Reed, William McFarland and Michael Graham

Commission Member Absent: Alexander Willette

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier, Miles Greenleaf and Commissioner Walter Whitcomb

1. Call the Meeting to Order and Introductions: William Varney, Chair

2. Appointment of the Executive Director

Commissioner Whitcomb stated that he would not be able to make the announcement of the executive director of the Maine State Harness Racing Commission until the next meeting because of paperwork. Commissioner McFarland made a motion to table this item until the next meeting. Commissioner Graham seconded. Vote 4-0.

3. Review of Potential Amendments to Chapter 11

Mr. Jennings stated that he has spent a considerable time on this chapter. They discussed using the word humane or welfare and it was agreed by the Commissioners to use the word welfare. Mr. Jennings stated that the language in section 1, subsection 5 needs to be modified to ensure reliable results regarding the split sample. There was a consensus by the Commissioners to change the language. Mr. Jennings stated that he would like to move section 1, subsection 10 and 11 out of Chapter 11 and move it into Chapter 17. It was agreed to move those subsections. There was a discussion of hypodermic apparatus on the grounds of an association and what is considered the grounds of an association. AAG, Guay stated that a possession of a hypodermic needle is against our rules. Mr. Jennings asked if maybe this is not being enforced. Commissioner Graham stated that trainers do have hypodermic needles to give their horse something; for example, if they are tying up, but you cannot race them on race day. Commissioner McFarland stated that this goes back to the welfare of the horse. That is used for the care and the welfare of the horse for the most part. Commissioner Varney agreed. Commissioner McFarland stated that it is better to have the rule than if there is a problem then you have the rule to back you up. If you don't have the rule whether you enforce it or not than you have nothing. Mr. Jennings stated that if you don't intend to enforce the rule than you don't want it in the rule. AAG, Guay stated that if the Commissioners think its ok in some instances to have hypodermic needles than it makes it hard to prosecute someone for that because they can't get in the minds of the Commissioners to understand when it is ok and when it's not ok. If that is what you are thinking is ok, than you should take the rule off the books. Commissioner McFarland asked if this was a problem. Have we really had an issue and a response here with this Commission in the past few years that relates directly to the improper use of needles, syringes, and hypodermic? Ms. Perkins stated that she was shocked when the Commission heard some testimony this year and people talked about what they have given their horses and what they were doing; and not one person picked up on this and they were not

supposed to be doing this and it bothered her. Several years ago when she was on the Commission, twenty-two cases came forward and the veterinarian prescribed what the horsemen were to be giving the horses. Ms. Perkins stated that she lives forty to fifty miles from a vet. Mr. Perkins usually meets the vet at Scarborough and he gives him a prescription and labels the bottle and the hypodermic needles. What you are finding too, is in the barns a lot of these things are not labeled and they do not have a vet's prescription for them. She thinks that this is one of the things that is hurting the industry. You can treat a horse therapeutically but you need to do it the correct way. Mr. Jennings stated that he's been told that there are people who sell products out of their vehicle that are unlabeled and he thinks they are illegal sells of medications under the FDA. That is an area of concern to him. Under section 12.D, this applies to out-of-competition testing that the following conduct by a licensee shall be considered a violation of this rule possession and/or use of a drug, substance or medication that has not been approved by the United States Food and Drug Administration for use in a horse; or possession and/or use of any product not clearly labeled, listing ingredients. He thinks this should be broader than out-of-competition testing. There is a huge disconnect here. What should we do around this area? AAG, Guay stated that maybe the Commissioners can weigh in and give you an opinion where they think this stuff is ok to use and under what circumstances. Then maybe you can rip out some of these rules and redefine them. Mr. Jennings asked the Commissioners what are their expectations or requirements. Commissioner Varney stated that he doesn't know how you can prohibit needles in some of the stables. He thinks it is necessary for the well-being of the horse. Some trainers are very good at it if a horse is going to colic or starts to colic so they can give the horse bannamine. Ms. Perkins stated that several years ago what they did at other tracks is a veterinarian comes on the grounds and when they leave they give a list of the horses that they treated and it's confidential and it's not used unless they have to go before someone like you. AAG, Guay asked Mr. Jennings if one way would be to define where the stuff is not allowed. Would everyone agree that the paddock and the track area. Commissioner Varney stated that we have plenty of rules but they are not enforced. He hates to over regulate. Mr. Jennings asked if they should try to define the scope of this requirement more towards the paddock. Commissioner Varney stated that would be a good way to approach it. Mr. Jennings stated that section 1, 14.C.3 says "in determining whether an object is drug paraphernalia, the commission, the court, or other authority should consider, in addition to all other logically relevant factors, the following: (3) the proximity of the object, in time and space, to the direct violation of this section". He asked how can an object be in proximity to a violation. AAG, Guay stated that if someone witnessed the injection into the horse, and then the steward comes in and finds a syringe in the stall next to the horse. Mr. Jennings asked if section 4, 4. could be changed. AAG, Guay stated that if you put in the ARCI that would be important and keep section 4, 2.C. Ms. Perkins asked why the reproductive system isn't in that section. AAG, Guay stated that it would probably affect the musculoskeletal system. Mr. Jennings stated that there are a few cross reference issues that he will fix. He stated that in section 12 the one thing that holds up this section is because the state steward needs to be present. Maybe we can change it to employee or representative of the commission. Mr. Jennings asked if there was any interest on the part of the commission in requiring some chain of evidence around having a prescription if you're going to be using a drug. Is there any interest in licensing veterinarians and that would only be for the purposes of holding them accountable and not so much as a witness. AAG, Guay asked what violations could a veterinarian do because we hold the trainer responsible for all medication issues. Would you create a new classification of penalties? Mr. Jennings stated that you would have to write in some standards in such as you can't be giving out medications. AAG, Guay stated that there is a Board that already regulates veterinarians. If there are veterinarians doing this, let the Board know and they will investigate that. Commissioner Graham stated that if we would enforce the

rules we have for trainers we won't have to worry about that. Commissioner McFarland stated that for two and a half years he has been on the Commission and he has watched trainers say that their vet gave them permission to do this. Mr. Jennings asked if they see any value for having some requirement for unmarked medication. AAG, Guay stated that you need to be mindful that supplements cannot be injected. Mr. Jennings asked if they are trying to narrow the scope of these prohibitions against hypodermic needles and drugs to the paddock area on the Association or just leave it the way it is. Commissioner McFarland stated that he would like it to say the racing area to include the overnight parking area.

4. Review of Potential Amendments to Chapter 17

Mr. Jennings stated that section 2.1 and section 6 those two sections were in conflict. It was suggested to change the word "limited" to "permitted" under section 2.1. Mr. Jennings under section 5 would like to cross reference the Penalty Schedule with the other chapters. It was stated that these were judge's violations and they would not change. Mr. Jennings stated that when you get to section 6, the word "Category" should change to "Class". AAG, Guay stated that you can make reference to the substance in this section but if it is not listed on the ARCI you would need some catchall language. It was discussed to leave the penalties the way they are and take out mitigating and aggravating circumstances under the penalties in section 6. They also discussed section 15 and section 16 fraudulent transfers and agreed to clarify the language.

5. Other Rulemaking Priorities

Commissioner Varney asked for any other rulemaking priorities. Commissioner McFarland stated that he would like to make a comment on Chapter 9. He is in support of the Sire Stake Program and he did a study a while back with the effect of one trailer at tracks, but if you now have no trailers than it is going to substantially affect the bet and the number of non-betting races that they have. Commissioner Varney stated that they would table Chapter 9 to the next meeting.

6. Public Comment

None.

7. Schedule of Future Meetings:

November 17, 2016 and November 18, 2016 (if necessary)

December 8, 2016

7. Adjourn

1:00 p.m.